

**AGENDA:** December 7, 2004

**4.24**

**CATEGORY:** Consent

**DEPT.:** City Manager

**TITLE:** Authorization to Enter Into Memorandum of Understanding – Acquisition of Santa Clara County-Owned Property – "Vector Control Property" – 750 Moffett Boulevard

### **RECOMMENDATION**

Authorize the City Manager and the Executive Director of the Shoreline Regional Park Community to enter into a Memorandum of Understanding (MOU) with the County of Santa Clara for the acquisition of 6.7 acres of property, known as the "vector control property" (Assessor's Parcel No. 153-19-007), near the intersection of Moffett Boulevard and Highway 101 (750 Moffett Boulevard), including provisions authorizing annual payments by the Community to Santa Clara County.

### **FISCAL IMPACT**

#### **General Fund**

The exact purchase price for this property will be determined as part of the MOU process. The Strategic Property Acquisition Fund will be the primary source for funds for acquiring the property. This account was established to provide available funds for the acquisition of key pieces of property. Utilizing this fund will have no direct effect on the General Fund. Once appraisals are complete and a final price is set, supplemental funding will be approved by the Council as may be necessary.

#### **Shoreline Regional Park Community**

In conjunction with this agreement in Fiscal Year 2005-06, the Community will transfer an amount equal to a County retirement levy currently credited to the Shoreline Regional Park Community Fund as well as a portion of the property tax that would normally accrue to the County if not for the Shoreline Regional Park Community ("Community"). The amounts for the transfer will fluctuate based on the assessed valuation and are described in more detail later in this report.

### **BACKGROUND AND ANALYSIS**

On November 19, 2003, the City Council held a study session to discuss the potential acquisition/development of strategic properties at the intersection of Moffett Boulevard and Highway 101. One property, owned by Santa Clara County, is a 6.7-acre site previously used

by the County as their centralized vector control facility. With the County's move of this operation to San Jose, the property is no longer needed for County purposes. Additionally, the Route 85/U.S. 101 Interchange Project has removed freeway ramps west of Moffett Boulevard and relocated them east of Moffett Boulevard. This has resulted in the freeing up of the previous southwest portion of this quadrant, which could become available if Caltrans declares the property surplus. Combined, these properties would equal almost 10 acres. Due to the strategic location of these properties at the intersection of Moffett Boulevard and Highway 101, the City Council discussed the potential for a landmark/gateway development at this location. A number of issues were reviewed at the study session regarding the constraints and opportunities associated with these properties.

Based on the discussion at the study session, staff has had a number of meetings with Santa Clara County and Caltrans representatives regarding these parcels. The discussions with the County have proceeded more expeditiously than those with Caltrans. The Council is probably also aware that like the City, Santa Clara County prefers to lease property to create an ongoing revenue stream rather than sell the property outright. The County was willing to entertain an outright sale to the City provided that the City was willing to consider issues associated with the funding of the Community as part of the acquisition agreement.

We have only recently learned that a retirement excise levy, which began many years ago, was being included with tax revenues due to the Community. The levy is approximately \$600,000 per year. In our meetings with the County, we have reached tentative agreements that would include the transfer in Fiscal Year 2005 of the retirement levy to the County with a gradual phase-in over seven years of additional revenues in return for the County agreeing to an outright sale of the vector control property and making no claim on any past retirement levies attributed to the Community. Our forecast indicates that while this will impact the Community's revenue stream to a certain extent, the amount set forth in the proposed agreement, particularly with the phase-in component, will be affordable and allow the Community to continue to meet all of its obligations. A tentative agreement regarding the terms for the acquisition of the vector control site by the City has been reached. This Council action would authorize staff to proceed with the acquisition process based on the terms negotiated.

The acquisition of the County property (hopefully, also in conjunction with the acquisition of the Caltrans property) would provide the City the opportunity to control the redevelopment of this strategic location. It would provide the City direct influence over what would be developed at this gateway site and would provide the ability for the City to strategically use these properties for potentially significant economic development purposes. Among the potential uses would be for a freeway-oriented commercial development. However, the acquisition of the County piece is not dependent on the acquisition of the Caltrans property. While it would be advantageous for both sites to be acquired and consolidated, the County property is a significant and "standalone" site.

Subsequently, after it is known whether or not the Caltrans site could be acquired, a land use/development plan for the site(s) would be developed as well as a financial analysis of whether or not it would be more advantageous to sell or long-term lease the properties for redevelopment.

Highway-oriented commercial development would be one of the uses carefully examined in that it would help offset the loss of sales tax resulting from the conversion of previous retail uses to nonretail uses elsewhere in the community.

The primary terms of the agreement with the County are the following:

- The City would purchase the 6.7 acres of County property at fair-market-appraised value for mixed-use development. This appraisal would be based on the County parcel unconsolidated with the State property. If the properties were consolidated in the future that increases the value of the County parcel, a subsequent payment for the difference will be made to the County.
- The Community will make an annual payment beginning in Fiscal Year 2005 in an amount equal to the County retirement levy for the Shoreline Regional Park Community tax area.
- The Community will make an annual payment beginning in Fiscal Year 2005 of a calculated amount that would phase in over a seven-year period. The calculated amount will be 20 percent of the County share of the tax increment of the Shoreline Regional Park Community taxing area. Phase-in amount will be 2 percent for Fiscal Year 2005, increasing 3 percent a year to a total of 20 percent in Year 7 of the agreement.
- The County will be responsible for the cost of any environmental remediation required at the site up to \$1 million. If the cost exceeds \$1 million, the County can withdraw from the sales agreement; however, both parties would agree to mediate the issue prior to the property sale being terminated.
- The County commits that these payments are in lieu of any other claims of revenue from the Community currently or into the future.

### **CONCLUSION AND SUMMARY**

As was originally discussed in study session last year, the City has the ability to directly influence the redevelopment of strategic properties at the intersection of Highway 101 and Moffett Boulevard. The tentative agreement for the acquisition of County-owned property at

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this location, if ratified by the City Council and Santa Clara County Board of Supervisors, will provide a unique economic development opportunity for the City to direct the redevelopment of this gateway property. Precisely what type of development and whether or not the property is later sold and/or leased will be determined after land use and fiscal analysis.

**PUBLIC NOTICING** – Agenda posting.

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